

21 C.J.S. Courts § 226

Corpus Juris Secundum | May 2023 Update

Courts

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VI. Rules of Adjudication, Decisions, and Opinions

B. Stare Decisis

4. Dicta

§ 226. Judicial dicta

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#) 92

Judicial dictum is an expression of opinion on a point involved in a case, argued by counsel and deliberately mentioned by the court, and is generally considered authoritative despite technically being dicta.

"Judicial dictum" is a statement the court expressly uses to guide parties in their future conduct.¹ As a general rule, such an expression of opinion on a point involved in a case, argued by counsel and deliberately mentioned by the court, although not essential to the disposition of the case, is distinguished from mere obiter dictum,² and it becomes authoritative when it is expressly declared by the court as a guide for future conduct.³ Thus, a judicial dictum should receive dispositive weight in a lower court.⁴ Conversely, a court is not bound to follow dicta in a prior case that did not fully debate the point currently at issue.⁵

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Footnotes

¹ Ariz.—[Alejandro v. Harrison](#), 223 Ariz. 21, 219 P.3d 231 (Ct. App. Div. 1 2009).

² Ill.—[Hawes v. Luhr Bros., Inc.](#), 212 Ill. 2d 93, 287 Ill. Dec. 583, 816 N.E.2d 345 (2004).

N.J.—[In re County of Atlantic](#), 2016 L.R.R.M. (BNA) 71154, 2016 WL 931269 (N.J. Super. Ct. App. Div. 2016).

Wis.—[State v. Holt](#), 128 Wis. 2d 110, 382 N.W.2d 679 (Ct. App. 1985).

3 Ariz.—[Alejandro v. Harrison](#), 223 Ariz. 21, 219 P.3d 231 (Ct. App. Div. 1 2009).

N.J.—[West Milford Tp. v. Garfield Recreation Committee, Inc.](#), 194 N.J. Super. 148, 476 A.2d 333 (Law Div. 1983).

Wis.—[State v. Koput](#), 142 Wis. 2d 370, 418 N.W.2d 804 (1988).

4 Ill.—[Hawes v. Luhr Bros., Inc.](#), 212 Ill. 2d 93, 287 Ill. Dec. 583, 816 N.E.2d 345 (2004).

5 U.S.—[Central Virginia Community College v. Katz](#), 546 U.S. 356, 126 S. Ct. 990, 163 L. Ed. 2d 945 (2006).

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